

Remarks

Rejection of Claims 10-17 Under Non-Statutory Obviousness-Type Double Patenting

Claims 10-17 stand rejected on the ground of non-statutory obviousness-type double patenting as unpatentable over claims 11-20 of co-pending Application Ser. No. 10/237,641. Applicants note that this application has now been patented. *See*, U.S. Pat. No. 7,153,702 (the '702 patent).

Applicants respectfully assert that the claims of this application are indeed patentably distinct from those of the '702 patent. The Office asserts that the '702 patent claims a method of detecting a change in activity of one or more enzymes or binding partners due to one or more molecules, wherein the enzymes or binding partners cleave or bind one or more specific binding substances, wherein the one or more specific binding substances are immobilized on a surface of a colorimetric resonant reflectance optical biosensor at one or more distinct locations. The Office asserts that the one or more specific binding substances could be cells and concludes that the only difference in the claims would therefore be the step of illuminating the biosensor with light.

However, the '702 patent requires the addition of one or more molecules that potentially cause a change in activity of one or more enzymes or binding partners to one or more distinct locations on the biosensor, wherein the distinct locations have one or more specific binding substances immobilized thereon. One or more enzymes or binding partners are then added to the one or more distinct locations;

The instant application, in contrast, requires applying one or more types of cells to a biosensor, wherein one or more specific binding substances are immobilized at two or more distinct locations on the biosensor.

The methods of the instant invention are patentably distinct from those of the '702 patent. Applicants respectfully request withdrawal of the rejection.

Respectfully submitted,

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